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SUBJECT: NICARAGUAN NATIONAL ASSEMBLY PASSES COASTAL LAW

REF: 07 MANAGUA 1265

SUMMARY  
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¶1. (SBU) Summary: The National Assembly unanimously approved a coastal law to regulate the use of Nicaragua's shoreline and maritime areas. This final bill was drafted in close consultation with the private sector, which sought to protect private property rights and develop the tourism industry. Some U.S. beachfront property owners are content with the law as it is written, but others are concerned that the Government of Nicaragua (GON) will interpret and enforce the legislation for the benefit of its allies.  
End Summary.

UNANIMOUS PASSAGE OF COASTAL LAW  
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¶2. (U) On June 4, the National Assembly unanimously approved a coastal law that provides a framework for environmental protection, public access rights, commercial activity, and property rights along the shoreline of any body of water in Nicaragua. It took the National Assembly five years to pass the legislation because of private sector concerns that it would weaken property rights and stifle tourism investment (Ref A).

MUNICIPALITIES TAKE ON ADDED ROLES  
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¶3. (U) The law states that municipalities are responsible for regulating the use of beachfront property, protecting public access rights, and granting concessions for the use of public land. For coastal property along the Atlantic and Pacific Oceans, the law establishes environmental and public access requirements for the first 50 meters of shoreline, as measured from the high-tide mark. It recognizes beachfront property rights within this area, but gives municipalities zoning authority. There is a five-meter setback, measured from high tide, for natural lakes, artificial lakes, rivers, and other bodies of water.

COMMISSION FOR COASTAL DEVELOPMENT  
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¶4. (U) The coastal law establishes a Commission for Coastal Zone Development (CDZC) to provide technical assistance and advice to municipalities on coastal development and management and on concessions for use of public land. The CDZC also coordinates the activities of the central government, municipalities, and the private sector to encourage the sustainable development of coastal areas. The commission is chaired by the Nicaraguan Institute of Tourism (INTUR) and includes the Ministry of Environment and Natural Resources, the Ministry of Transportation and Infrastructure, the Nicaraguan Army, the National Institute for Territorial Surveying, the National Police, two designated municipalities, and the Federation of Nicaraguan Business Associations (COSEP). The Council

of the Autonomous Region of the North Atlantic Coast (RAAN) and the Council of the Autonomous Region of the South Atlantic Coast (RAAS) are also CDZC members when issues affect their coasts.

#### PRIVATE PROPERTY RIGHTS PROTECTED

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¶5. (U) The law recognizes ownership rights for beachfront property that has been acquired legally and registered with the Public Property Registry. Landowners are protected so long as they have a title or deed issued prior to the 1917 Agrarian Reform Law, the first law that regulated use of shoreline property, or a title issued as a result of the 1987 Agrarian Reform Law. Those with concession rights to public land prior to the passage of the law are to be given "consideration" when their leases come up for renewal.

#### PUBLIC ACCESS RIGHTS

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¶6. (U) The law protects historic access points that existed before the law was passed. If there is no historic access point on private land, the CDZC, relevant municipalities, and the owner of the property will determine where to create an access point that will be 10 meters wide. If owners do not allow public access to beaches, the municipalities may fine them. Public access rights are not required for land where the terrain is too difficult to traverse.

#### CONCESSIONS

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¶7. (U) Municipalities, in consultation with the CDZC, may grant concessions for commercial, residential, and tourism-related use of public land for up to 20 years. In special cases, tourism projects may be granted a concession for 59 years. Nicaraguans and foreign residents can apply for a concession. Only one concession per entity may be granted. All projects must present an environmental impact study, a business plan, and an estimate of employment generation. Municipalities must compensate in cash if they cancel a concession without cause. The National Assembly will draft implementing regulations to determine the amount of compensation.

#### INDUSTRY FIGHTS FOR PRIVATE PROPERTY RIGHTS

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¶8. (U) The private sector played a proactive role in ensuring that the law protects property rights. Throughout the entire legislative process, Nicaraguan and foreign landowners, including U.S. proprietors, were worried that the law would nationalize all shoreline property. Aggressive lobbying convinced legislators that protecting private property rights was an important factor in attracting foreign investment and promoting the tourism industry. For instance, industry representatives persuaded legislators to limit public access rights to historic points rather than require points every 100 meters along the shoreline. The new coastal law also leaves without effect all other previous laws that, if enforced, would have limited beachfront property rights.

#### SOME U.S. INVESTORS PLEASED WITH THE LAW...

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¶9. (SBU) Some U.S. landowners and entrepreneurs expressed their satisfaction with the law as passed. They explained that the law provided much-needed assurances for private property rights and would promote the development of the tourism industry. Several entrepreneurs noted that prior to the passage of the law, uncertainty concerning private ownership rights scared away many U.S. investors who were interested in buying beachfront property.

#### ...WHILE OTHERS HAVE DOUBTS

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¶10. (SBU) Other U.S. landowners are concerned the GON will interpret and enforce the law to their detriment. In particular, the law does

not clearly address ownership rights for people who obtained property from municipalities and titles issued between 1917 and 1970. Turalu Murdock, Vice-President and Counsel of First American Title Insurance, said that legislators belonging to the Sandinista National Liberation Front (FSLN) insist that titles for property sold by municipalities to private parties are invalid because it is illegal to sell public land. She explained that supplementary titles are also problematic because many of them were not properly registered in the Public Property Registry. She recommended that landowners with supplementary titles work with the GON to ensure that their property is registered.

COMMENT

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11. (SBU) The new coastal law strikes a reasonable balance between environmental protection, on the one hand, and property rights and the development of the tourism industry on the other. The passage of the law was a success for property owners and tourism investors who sustained a five-year lobbying campaign with the National Assembly to protect private property rights and ensure that it included no confiscatory language. Despite this success, the FSLN remains resolute in overturning municipal sales of land and contesting titles issued between 1917 and 1970. In many cases, they appear to seek possession of beachfront property for their own commercial and personal interests.

CALLAHAN